

**SECTION H - SPECIAL CONTRACT REQUIREMENTS**  
**FOR THE**  
**INTEGRATED COMMERCIAL INTRUSION DETECTION SYSTEM-IV**  
**(ICIDS-IV)**

**14 June 2007**

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

## CLAUSES INCORPORATED BY REFERENCE

52.217-9	Option To Extend The Term Of The Contract	MAR 2000
<b>52.222-41</b>	<b>Service Contract Act of 1965, AS AMENDED</b>	<b>JULY 2005</b>

## CLAUSES INCORPORATED BY FULL TEXT

## PUBLIC RELEASE OF INFORMATION:

a. In accordance with DFARS 252.204-7000, Disclosure of Information, The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless the Contractor has written approval or the information is otherwise in the public domain before the date of release.

b. Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Technical Monitor noted in the contract, Section H, at least 45 days before the proposed date for release. All material to be cleared shall be sent by certified mail/return receipt requested to:

U.S. Army Space and Missile Defense Command  
ATTN: TBD (One will be named after contract award)  
P. O. Box 1500  
Huntsville, AL 35807 3801

c. The Technical Monitor shall process the request in accordance with SMDC form 614-R.

d. If there is no response within 30 days, the Contractor shall resubmit the request to:

U.S. Army Space and Missile Defense Command  
ATTN: SMDC-PA  
P. O. Box 1500  
Huntsville, AL 35807 3801

e. The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor.

**DISTRIBUTION CONTROL OF TECHNICAL INFORMATION:**

a. The following terms applicable to this clause are defined as follows:

(1) Technical Document. Any recorded information that conveys scientific and technical information or technical data.

(2) Scientific and Technical Information. Communicable knowledge or information resulting from or pertaining to conducting and managing a scientific or engineering research effort.

(3) Technical Data. Recorded information related to experimental, developmental, or engineering works that can be used to define an engineering or manufacturing process or to design, procure, produce, support, maintain, operate, repair, or overhaul material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents, or computer printouts. Examples of technical data include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog-item identifications, and related information and computer software documentation.

b. Except as may otherwise be set forth in the Contract Data Requirements List (CDRL), DD Form 1423, (i) the distribution of any technical document prepared under this contract, in any stage of development or completion, is prohibited without the approval of the Contracting Officer and (ii) all technical documents prepared under this contract shall initially be marked with the following distribution statement, warning, and destruction notice:

(1) DISTRIBUTION STATEMENT B: Distribution authorized to U.S. Government Agencies Only; Proprietary Information (SBIR) and Critical Technology, (Report Date). Other requests for this document shall be referred to US Army Space & Missile Defense Command, ATTN: SMDC-IM-PA, PO Box 1500, Huntsville, AL 35807-3801.

OR

(1) DISTRIBUTION STATEMENT E - Distribution authorized to DoD components only due to proprietary information and/or Arms Export Control Act Information, (date of determination). Other requests shall be referred to SMDC-IO-P.

OR

(1) DISTRIBUTION STATEMENT F - Further dissemination only as directed by SMDC-IO-P or higher DOD authority.

(2) WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C., Sec 2751 et seq.) or the

Export Administration Act of 1979, as amended, Title 50, U.S.C., app 2401 et seq. Violation of these export laws are subject to severe criminal penalties. Disseminate in accordance with provisions of DOD Directive 5230.25.

(3) DESTRUCTION NOTICE - For classified documents, follow the procedures in DOD 5220.22-M, National Industrial Security Program Operating Manual (NISPO), Chapter 5, Section 7, or DOD 5200.1-R, Information Security Program Regulation, Chapter IX. For unclassified, limited documents, destroy by any method that will prevent disclosure of contents or reconstruction of the document.

c. As a part of the review of preliminary or working draft technical documents, the Government will determine if a distribution statement less restrictive than the statement specified above would provide adequate protection. If so, the Government's approval/comments will provide specific instructions on the distribution statement to be marked on the final technical documents before primary distribution.

#### TECHNICAL COGNIZANCE AND TECHNICAL DIRECTION:

a. The Office of PM-Force Protection Systems is the cognizant Government technical organization for this contract and will provide technical direction as defined herein. Technical direction shall be exercised by the following Lead Project Officer:

TBD (One will be named after contract award)

b. Technical direction, as defined in this clause is the process by which the progress of the contractor's technical efforts are reviewed and evaluated and guidance for the continuation of the effort is provided by the Government. It also includes technical discussions and, to the extent required and specified elsewhere in this contract, defining interfaces between contractors; approving test plans; approving preliminary and critical design reviews; participating in meetings; providing technical and management information; and responding to request for research and development planning data on all matters pertaining to this contract. The contractor agrees to accept technical direction only in the form and procedure set forth herein below.

c. Except for routine discussions having no impact on contractor performance, any and all technical direction described in paragraph b. above shall only be authorized and binding on the contractor when issued in writing and signed by a Government official designated in a. above. The Technical Direction shall not effect or result in a change within the meaning of the "CHANGES" clause, or any other change in the Scope of Work, price, schedule, or the level of effort required by the contract. Such changes must be executed by the Contracting Officer as a Modification Change Order, or as a Modification Supplemental Agreement, as appropriate. It is emphasized that such changes are outside the authority of the Government officials designated in a. above who are not authorized to issue any directions which authorize the contractor to exceed or perform less than the contract requirements. Notwithstanding any provision to the contrary in any Technical Directive, the estimated cost of this contract, and, if this contract is incrementally funded, the amount of funds allotted, shall not be increased or deemed to be increased by issuance thereof.

**KEY PERSONNEL:**

a. The key personnel listed in paragraph b below are considered to be critical to the successful performance of this contract. Prior to replacing these key personnel, the contractor shall obtain written consent of the contracting officer. In order to obtain such consent, the contractor must provide advance notice of the proposed changes and must demonstrate that the qualifications of the proposed substitute personnel are generally equivalent to or better than the qualifications of the personnel being replaced.

b. Key Personnel List:

NAME	POSITION
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TO BE DETERMINED

(This list shall be negotiated by the parties. Personnel identified as key individuals in the offeror's proposal shall be candidates for this list, however, it is not intended that all such proposed key individuals must be listed in this clause.)

**PATENTS - REPORTING OF SUBJECT INVENTIONS:**

a. The interim and final invention reports shall be submitted on DD Form 882, Report of Inventions and Subcontracts see <http://www.smdc.army.mil/Contracts/Contracts.html> and click on the Special Announcements link to see the instructions. In accordance with DFARS 252.227-7039 and FAR 52.227-12, interim reports shall be furnished every twelve (12) months and final reports shall be furnished within three (3) months after completion of the contracted work. In accordance with FAR 27.305-3(e), when a contractor fails to disclose a subject invention the applicable withholding of payments provision may be invoked.

b. The contractor shall include the clause at DFARS 252.227-7039 in all subcontracts with small businesses and non profit organizations, regardless of tier, for experimental, developmental, or research work.

c. The prime contractor shall account for the interim and final invention reports submitted by the subcontractor(s). The prime contractor's invention reports shall contain a copy of each of the subcontractor's invention reports.

**Continuation of DoD Contractor Services At Government Facilities Within CONUS**

1. Contractor personnel who normally provide services at government facilities and who are designated as emergency personnel by a DoD Component are expected to use all means at their disposal to continue to provide such services, in accordance with the terms and conditions of the contract, during periods of crisis situations.

2. To ensure that emergency personnel services under the contract are performed and/or delivered by the contractor during times of heightened security and/or limited access to a government facility, the Task Order Monitor/Technical Monitor and prime contractor in coordination with the Contracting Officer may enter into an agreement that the hours/duties specified in the contract/Task Order may be worked at varying times and locations as long as such is consistent with the Government's requirement and will have no negative impact on the quality of the effort to be performed. The Task Order/Technical Monitor shall immediately seek approval of the Contracting Officer of any such agreement.

3. The Contracting Officer may take any of the following actions, depending on the severity and length of the situation:

a. In accordance with FAR 52.242-15, the Contracting Officer may, at any time, issue a written stop-work order to stop all or any part of the work called for under the contract. If a stop work order is issued, the contractor is required to take all reasonable steps to minimize the incurrence of costs allocable to the stopped work.

b. Direct contractor personnel designated mission essential emergency personnel to report to their duty station at government facilities as usual for continuing work not subject to any stop work order.

c. Direct non-essential contractor personnel who normally work at government facilities to report to their corporate office as their temporary duty station for work not subject to any stop work order.

d. Direct, on a case-by-case basis, non-essential contractor personnel who normally work at government facilities to telecommute for performance of work not subject to any stop work order.

4. For Task Orders performed under emergency situations within CONUS, the hours worked shall be billed at the rates specified in the Task Order, regardless of where performance takes place. This provision in no way relieves the contractor from performance of the direct productive person hours (DPPHs) as stated in the Task Order.

5. When required in emergency/crisis situations, the contractor shall report daily to the Technical Monitor the status and location of all DoD contractor employees. The Technical Monitor shall relay such information to the Contracting Officer.

6. Nothing in this provision shall be construed to change any element of the contract or the terms and conditions therein.

#### YEAR 2000 COMPLIANCE:

The Contractor shall ensure products provided under this contract, to include hardware, software, firmware, and middleware, whether acting alone or combined as a system, are Year 2000 compliant as defined in FAR Part 39.

**TERM OF CONTRACT**

The initial term of this contract shall be 12 months from the date of award or notice to proceed, whichever is later, subject to the Government's option to renew in accordance with the paragraph entitled "Option to Extend the Term of the Contract" above.

**FIRM PRICES**

The Government is in no way bound to purchase any items beyond the term of the contract set forth in the paragraph entitled "Term of Contract" above. The additional periods and firm prices set forth in Section B are for the option provision, if the Government chooses to exercise it.

**INSURANCE**

In accordance with the clause "Insurance - Work on a Government Installation (FAR 52.228-5)" and this schedule, the Contractor shall, at its own expense, acquire and maintain during the entire performance period of this contract insurance of at least the following kinds and minimum amounts set forth below:

a. Workman's Compensation and Employer's Liability Insurance in accordance with the amounts specified by the laws of the states in which the work is to be performed under this contract. In the absence of such state laws, an amount of \$100,000 shall be required and maintained.

b. General Liability Insurance: Bodily injury liability in the minimum amount of \$500,000 per occurrence.

c. Automobile Liability Insurance in the amount of: \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.

**NOTICE TO PROCEED**

Notwithstanding FAR Clause 52.233-3 entitled "Protest After Award," the contractor shall take no actions on this contract, or incur any costs, without the Contracting Officer's official notice to proceed. It is anticipated that this notice to proceed will generally be issued when the Contracting Officer determines that there is no threat of protest. All delivery dates based upon "days after effective date of contract" shall be interpreted as "days after receipt of notice to proceed."

**ENGINEERING SUPPORT JOB DESCRIPTIONS**

a. Program Manager. The program manager plans, organizes, directs, and controls all work performed. The Program Manager should have a Bachelor's Degree in his/her recognized engineering, scientific, technical or other related discipline that is relevant to the contract and at least fourteen (14) years of progressively responsible experience in engineering practice and the management of engineering programs of which, at least six (6) years, the candidate has been responsible for overall management of engineering or

scientific projects and has controlled the funds and resources for these projects.

b. Site Manager. The Site Manager is charged with the responsibility for the contract activities associated with the specific site. In conjunction with the Senior Engineer he/she coordinates activities concerned with acquisition, installation, modification, testing, and control of contract equipment as well as overseeing the interface, modification and testing of existing installed security equipment. The Site Manager interfaces with post or base personnel to provide liaison between the contractor and the various organizations at the installation. The Site Manager should have at least six years experience relative to installation of Intrusion Detection Systems and site specific requirements for physical security equipment. A Site Manager should have a Bachelor's Degree in his/her recognized engineering, scientific, technical or other related discipline that is relevant to the contract or twelve (12) years of progressively responsible experience in the field required.

c. Senior Engineer. The Senior Engineer directs and coordinates activities concerned with acquisition, installation, modification, testing, and maintenance of contract equipment and interfacing, modification, and testing of existing security equipment. The Senior Engineer provides quality assurance checks for the installation. The Senior Engineer provides senior technical support to the Site Manager. The Senior Engineer should have at least three years experience in the particular field for which he/she is proposed. The Senior Engineer should have a Bachelor's Degree in his/her recognized engineering, scientific, technical, or other related discipline that is relevant to the contract or eight (8) years of progressively responsible experience in the field required.

d. Engineer. The Engineer supervises the field installation and directly coordinates activities of the technicians and electricians at each location. The Engineer provides quality assurance checks of the installation. The Engineer loads, configures, and modifies software. The Engineer tests existing sensors.

e. Junior Engineer. The Junior Engineer assists the Engineer with software, systems testing, and existing sensor testing.

f. Draftsman. The Draftsman drafts installation drawings, final drawings and wiring diagrams used by installation crews who erect and install equipment. The Draftsman uses a Computer- Aided Design (CAD) equipment and software to produce the drawings.

g. Clerk/Typist. The Clerk/Typist compiles data to maintain business records and reports, types reports, correspondence, application forms, shipping tickets, and other material. The Clerk/Typist files records and reports, and posts information to records.

h. Master Electrician. Supervises Electricians.

i. Electrician. The Electrician holds a license that prescribes his/her proficiency to the level of Electrician" and is responsible for the installed material to meet or exceed all applicable regulations and codes.

j. Senior Technician. The Senior Technician installs sensors and electronic components, connects signal wiring, and data transmission media. The Senior Technician supports Engineers, utilizing theoretical knowledge of fundamental scientific, engineering,



mathematical, or draft design principles.

k. Equipment Operator. The Equipment Operator supports the Site Manager utilizing the fundamental operational and engineering skills in the operation of required construction equipment such as a backhoe, trencher, or bulldozer.

l. Technician. The Technician assists the Senior Technician with installation duties. The Technician performs as the console operator (with the Military Police) during installation.

m. Laborer. The Laborer performs cleanup, provides on-site delivery of equipment, assists installers, as needed, local acquisitions of common components, and any other duties as needed.

n. Logistics Engineer. The Logistics Engineer analyzes contractual commitments, site specifications, design changes, and other data to plan and develop support of the site installation.

#### DELIVERY ORDERS

a. The Government's requirements shall be given to the Contractor by the timely issuance of delivery orders, duly executed by the Contracting Officer in accordance with the Order Limitations and Indefinite Quantity clauses set forth in Section I of this solicitation. The Government will issue a Delivery Order on DD Form 1155.

b. The delivery order proposal development may/should be coordinated and discussed with the COR prior to submission to the Contracting Officer for processing of the delivery order.

#### ORDERING PROCEDURES

a. Only warranted U.S. Army Space and Missile Defense Command Contracting Officers are authorized to place orders hereunder.

b. All delivery orders issued hereunder are subject to the terms and conditions of this contract. The contract shall control in the event of conflict with any delivery order. When mailed (via U.S. Postal Service or by electronic means), a delivery order shall be considered "issued" for purposes of this contract.

c. A DD Form 1155 will be issued for each order.

d. In addition to any other data that may be called for in the contract, the following information shall be specified in each applicable order:

- (a) date of order
- (b) contract and order number
- (c) description of the task to be performed
- (d) period of performance or completion date
- (e) exact place(s) of delivery
- (f) invoice and payment provisions to the extent not covered by the contract

**CONTRACTOR EMPLOYEES CONDUCT ON MILITARY INSTALLATIONS.**

a. The services to be performed under this contract do not require the contractor or its employees to exercise personal judgment and discretion on behalf of the Government. The contractor's employees shall act and exercise personal judgment and discretion only on behalf of the contractor.

b. Contractor employees shall comply with all regulations, directives or special requirements issued by military command authorities responsible for law and order, administration and security at an installation. The contractor shall not construe these regulations, directives or special requirements to mean that the Government is establishing any degree of control inconsistent with the purpose of this contract. Contractor employees are subject to security checks to assure that an employee's presence on an installation does not violate these regulations, directives, or special requirements. Contractor employees will not be allowed on an installation when such checks reveal that the employee's presence would be detrimental to the security of the installation. The Government's refusal to allow entry onto an installation to any contractor employee under this provision shall not excuse the contractor from its responsibilities to fully perform under this contract.

c. Vehicle Registration. When working on a secured Government installation, contractor employees shall register their vehicles with the installation's Provost Marshal's office. The contractor is responsible for contacting the Provost Marshal's office to determine what documentation is needed to register vehicles.

**ONLY NEW EQUIPMENT AND RECONDITIONED PARTS.**

Only new equipment shall be delivered under this contract unless otherwise authorized by the Contracting Officer on a case-by-case basis. Components of such equipment may be reconditioned provided such components are drawn from stockage, which does not differentiate between new and reconditioned components.

**RELEASE OF CONTRACT**

The contractor agrees that subsequent to issuance of the notice to proceed (pursuant to the paragraph entitled "Notice to Proceed" (above), the Government may post an electronic copy of this contract, on the SMDC World Wide Web (WWW) and other Government web-sites with unlimited access thereto.

**CURRENT TECHNOLOGY ITEMS**

a. The Contractor, upon commercial announcement of new components that can be technically and economically substituted for items listed in Section B of this contract, shall offer said items for enhancement, addition or replacement.

(1) Product enhancements are replacements of items set forth in Section B due to technology enhancements of those products. The product enhancement shall exceed the requirements of the Statement of Work (SOW) in Section C, the Specifications and their applicable Attachments/Appendices, provide better performance than the existing product, as documented by commercial literature for such enhancements, and be offered

at the same or lower price than the price provided in Section B.

(2) Product additions are new technology, that was unavailable or uneconomical at the time of contract award. The product additions shall be within the general scope of Section C and be processed as a change in accordance with the "Engineering Changes" clause of this contract. The Contractor shall be required to solicit a minimum of three competitive quotes, including supporting documentation, on each addition proposed. If three competitive quotes are unavailable, the Contractor shall provide justification for a sole source procurement.

(3) Product replacements are Section B items replaced due to discontinued products. The replacement shall meet or exceed the requirements of the Statement of Work (SOW) in Section C, the Specifications and their applicable attachments/Appendices, provide at least equivalent or better performance than the existing product as documented by commercial literature for such replacements, and be offered at the same or lower price than the price provided in Section B for the product to be replaced. Should the Contractor, through no fault of its own, be unable to supply an acceptable replacement, the Government and the Contractor shall proceed as mutually agreed.

b. Technology substitution shall be accomplished by means of a contract modification. In no event will the prices for the particular item be in excess of the lowest available GSA Schedule price. The Contractor shall not be reimbursed for proposal preparation costs for changes as described above. The offers shall be supported by the information required by paragraph b(1) through (7) of the "Engineering Changes" Clause. The decision to accept such offers shall be at the sole and exclusive discretion of the procuring contracting officer and not subject to the "Disputes" clause of this contract.

#### ENGINEERING CHANGES

a. In accordance with the clause entitled "Current Technology Items", the Contractor shall propose commercially announced technological substitutions. In addition, the Contractor is encouraged to propose, independently, engineering changes to equipment, software, or other contract requirements, irrespective of commercial announcement. These changes may be proposed for reasons of immediate economy, or to improve performance, to save energy, personnel, or to meet increased data processing requirements, and so reduce project life cycle costs.

b. This clause applies only to those proposed changes initiated by the Contractor and identified as a proposal submitted pursuant to the provisions of this clause. As a minimum, the following information shall be submitted by the Contractor with each proposal:

(1) A description, in detail, of the difference between the existing contract items and/or services and those proposed, and a specific analysis of the comparative advantages and disadvantages of each.

(2) Specific items or services contained in the contract which must be changed if the proposal is adopted, e.g., if new equipment is offered to replace currently installed, will the old be exchanged for the new, and on what basis, or, will it require other equipment in Section B to be changed.

(3) A statement as to how the changes will affect technical requirements, prices, etc., if adopted.

(4) The analysis of a timeframe in which the change should be instituted so as to obtain maximum benefit to the Government for the remainder of the contract.

(5) Trade Agreement Act Certification.

(6) A minimum of three competitive price comparisons for each new product proposed.

(7) OEM notice of product discontinuance, where applicable.

(8) Human Systems Interface factors of the proposed item, which either negatively impact or enhance the current contract baseline.

c. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract shall be final and not subject to the "Disputes" clause of this contract.

d. Acceptance of any engineering change proposal submitted pursuant to this clause shall be made by issuance of a written modification to this contract. Unless and until such a modification is issued to the contractor, the contractor remains obligated to perform in accordance with the terms of the existing contract.

e. If a change proposal submitted pursuant to this clause is accepted and applied to this contract, either the contractor or the Government may be entitled to an equitable adjustment in the contract price. When the cost of performance of this contract is either increased or decreased as a result of the change, the equitable adjustment increasing or decreasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification shall state that it is made pursuant to this clause. In those cases when the entitlement to equitable adjustment is essentially equal between the parties there may be no increase or decrease in the contract amount.

#### DISSEMINATION OF INFORMATION

There shall be no dissemination or publication, except within and between the contractor and any subcontractors, of information developed under this contract or contained in the reports to be furnished pursuant to this contract without prior written approval of the Contracting Officer. Language similar to this provision shall be included in all subcontracts to this contract. This provision includes news releases.

#### EMPLOYMENT OF CURRENT FEDERAL, CIVILIAN, OR MILITARY PERSONNEL.

The contractor shall not employ, on this contract, civilian or military employees who are currently employed by the Federal Government, unless the Contractor obtains express written approval from the Contracting Officer. Individuals currently employed by the Federal Government must obtain approval from their Ethics Counselor prior to taking outside employment. A copy of the approval must be forwarded to the Contracting

Officer prior to the contract employment of such individuals.

#### NOTIFICATION OF DEBARMENT/SUSPENSION STATUS.

The contractor shall provide written notice to the Contracting Officer within ten (10) calendar days of being suspended, debarred, or declared ineligible by any Department or other Federal Agency, or upon receipt of a notice of proposed debarment from another DOD Agency, during the performance of this contract.

#### SAFETY AND ACCIDENT PREVENTION

a. In performing work under this contract on a Government installation the contractor shall:

1. Conform to the specific safety requirements established by this contract;
2. Comply with the safety rules of the Government installation that concern related activities not directly addressed in this contract;
3. Take all reasonable steps and precautions to prevent accidents and preserve the life and health of Contractor and Government personnel directly or indirectly involved in the performance of this contract; and
4. Take such additional immediate precautions as the Contracting Officer may require for safety and accident prevention purposes.

b. The Contracting Officer may, by written order, direct additional safety and accident standards be met in the performance of this contract. Any modifications to the contract required as a result of such direction will be made in accordance with the "Changes" clause of this contract.

c. Any violation of these safety rules and requirements, unless promptly corrected as directed by the Contracting Officer, may be grounds for termination of this contract in accordance with the "Termination" clause.

#### **52.246-18 Warranty of Supplies of a Complex Nature. (MAY 2001)**

(a) Definitions. As used in this clause— "Acceptance" means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract. "Supplies" means the end items furnished by the Contractor and related services required under this contract. The word does not include "data."

(b) Contractor's obligations. (1) The Contractor warrants that for one year from date of acceptance of the ICIDS-IV System via Security Construction Statement (DA Form 4604-R) all supplies furnished under this contract will be free from defects in material and workmanship and will conform with all requirements of this contract; provided, however, that with respect to Government-furnished property, the Contractor's warranty shall extend only to its proper installation, unless the Contractor performs some modification or other work on the property,

in which case the Contractor's warranty shall extend to the modification or other work.

(2) Any supplies or parts thereof corrected or furnished in replacement shall be subject to the conditions of this clause to the same extent as supplies initially delivered. This warranty shall be equal in duration to that set forth in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(3) The Contractor shall not be obligated to correct or replace supplies if the facilities, tooling, drawings, or other equipment or supplies necessary to accomplish the correction or replacement have been made unavailable to the Contractor by action of the Government. In the event that correction or replacement has been directed, the Contractor shall promptly notify the Contracting Officer, in writing, of the nonavailability.

(4) The Contractor shall also prepare and furnish to the Government data and reports applicable to any correction required (including revision and updating of all affected data called for under this contract) at no increase in the contract price.

(5) When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) to the Contractor's plant and return.

(6) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) Remedies available to the Government.

(1) In the event of a breach of the Contractor's warranty in paragraph (b)(1) of this clause, the Government may, at no increase in contract price—

(i) Require the Contractor, at the place of delivery specified in the contract (irrespective of the f.o.b. point or the point of acceptance) or at the Contractor's plant, to repair or replace, at the Contractor's election, defective or nonconforming supplies; or

(ii) Require the Contractor to furnish at the Contractor's plant the materials or parts and installation instructions required to successfully accomplish the correction.

(2) If the Contracting Officer does not require correction or replacement of defective or nonconforming supplies or the Contractor is not obligated to correct or replace under paragraph (b)(3) of this clause, the Government shall be entitled to an equitable reduction in the contract price.

(3) The Contracting Officer shall notify the Contractor in writing of any breach of the warranty in paragraph (b) of this clause within 45 days after discovery of the defect. The Contractor shall submit to the Contracting Officer a written recommendation within 30 business days as to the corrective action required to remedy the breach. After the notice of breach, but not later than 30 days after receipt of the Contractor's recommendation for corrective action, the Contracting Officer may, in writing, direct correction or replacement as in paragraph (c)(1) of this clause, and the Contractor shall, notwithstanding any disagreement regarding the existence of a breach of warranty, comply with this direction. If it is later determined that the Contractor did not breach the warranty in paragraph (b)(1) of this clause, the contract price will be equitably adjusted.

(4) If supplies are corrected or replaced, the period for notification of a breach of the Contractor's warranty in paragraph (c)(3) of this clause shall be 30 days from

the furnishing or return by the Contractor to the Government of the corrected or replaced supplies or parts thereof, or, if correction or replacement is effected by the Contractor at a Government or other activity, for 30 days thereafter.

(5) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of the contract.

(End of clause)

END OF SECTION H